IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
WESTERN DIVISION

NO. 5:18-CR-452-FL-1

UNITED STATES OF AMERICA v. LEONID ISAAKOVICH TEYF, TATYANA ANATOLYEVNA TEYF, a/k/a TATIANA TEYF, Defendants.	**GOVERNMENT'S PROPOSED JURY INSTRUCTIONS**

The United States of America, by and through the United States Attorney for the Eastern District of North Carolina, respectfully requests that the Court include the following proposed instructions in its charge to the jury and requests leave to offer such other and additional instructions as may become appropriate during the course of the trial:

I. GENERAL PRELIMINARY INSTRUCTION AT THE BEGINNING OF TRIAL

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II. GENERAL INSTRUCTIONS AFTER THE PRESENTATION OF ALL EVIDENCE

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6. Introduction to the Final Charge—Province of the Court and of the Jury

<u>Counts 1, and 2-26, 33-43</u> – Engaging in Monetary Transactions in Criminally Derived Property (18 U.S.C. § 1957)

39. Count 1: Object 2, and 2-26, 33-43 : Nature of offense

40. The Statute Defining the Offense Charged

41. The Essential Elements of the Offense Charged

42. "Monetary Transactions" – Explained

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48. The Nature of the Offense Charged

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52. "Official Act" - Defined

53. "Corruptly" - Defined

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D. THE DELIBERATIONS AND THE VERDICT

85. Verdict - Election of Foreperson - Duty to Deliberate – Unanimity – Punishment – Form of Verdict – Communication with the Court

Respectfully submitted this 3rd day of February, 2020.

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GOVERNMENT'S PROPOSED JURY INSTRUCTION NO. 1

Court's Comments on Certain Evidence

The law of the United States permits a federal judge to comment to the jury on the evidence in a case. Such comments are, however, only expressions of my opinion as to the facts and the jury may disregard them entirely. You, as jurors, are the sole judges of the facts in this case. It is your recollection and evaluation of the evidence that is important to the verdict in this case.

Although you must follow the Court's instructions concerning the law applicable to this case, you are totally free to accept or reject my observations concerning the evidence received in the case.

(1A Kevin F. O'Malley et al., Federal Jury Practice and Instructions, Criminal, § 11.06 (6th ed. 2019))

GOVERNMENT'S PROPOSED JURY INSTRUCTION NO. 2

Court's Questions to Witnesses

During the course of a trial, I may occasionally ask questions of a witness. Do not assume that I hold any opinion on the matters to which my questions may relate. The Court may ask a question simply to clarify a matter—not to help one side of the case or hurt another side.

Remember at all times that you, as jurors, are the sole judges of the facts of this case.

(1A Kevin F. O'Malley et al., Federal Jury Practice and Instructions, Criminal, § 11.05 (6th ed. 2019))

GOVERNMENT'S PROPOSED JURY INSTRUCTION NO. 3

Court's Comments to Counsel

It is the duty of the Court to admonish an attorney who, out of zeal for his or her cause, does something which I feel is not in keeping with the rules of evidence or procedure.

You are to draw absolutely no inference against the side to whom an admonition of the Court may have been addressed during the trial of this case.

(1A Kevin F. O'Malley et al., Federal Jury Practice and Instructions, Criminal, § 11.04 (6th ed. 2019))

GOVERNMENT'S PROPOSED JURY INSTRUCTION NO. 4

Objections and Rulings

Testimony and exhibits can be admitted into evidence during a trial only if it meets certain criteria or standards. It is the sworn duty of the attorney on each side of a case to object when the other side offers testimony or an exhibit which that attorney believes is not properly admissible under the rules of law. Only by raising an objection can a lawyer request and obtain a ruling from the Court on the admissibility of the evidence being offered by the other side. You should not be influenced against an attorney or his client because the attorney has made objections.

Do not attempt, moreover, to interpret my rulings on objections as somehow indicating how I think you should decide this case. I am simply making a ruling on a legal question.

(1A Kevin F. O'Malley et al., Federal Jury Practice and Instructions, Criminal, § 11.03 (6th ed. 2019))

GOVERNMENT'S PROPOSED JURY INSTRUCTION NO. 5

Note-Taking Permitted

The Court will permit jurors to take notes during the course of this trial. There are a number of reasons for my decision. [The specific reasons for this decision could be added.]

You, of course, are not obliged to take notes. If you do not take notes you should not be influenced by the notes of another juror, but rely upon your own recollection of the evidence.

Note-taking must not be allowed to interfere with the ongoing nature of the trial or distract you from what happens here in court. Notes taken by any juror, moreover, are not evidence in the case and must not take precedence over the independent recollection of the evidence received in the case. Notes are only an aid to recollection and are not entitled to any greater weight than actual recollection or the impression of each juror as to what the evidence actually is. Any notes taken by any juror concerning this case should not be disclosed to anyone other than a fellow juror.

(1A Kevin F. O'Malley et al., Federal Jury Practice and Instructions, Criminal, § 10.04 (6th ed. 2019))

GOVERNMENT'S PROPOSED JURY INSTRUCTION NO. 6

Introduction to the Final Charge—Province of the Court and of the Jury

Members of the Jury:

Now that you have heard all of the evidence that is to be received in this trial and each of the arguments of counsel it becomes my duty to give you the final instructions of the Court as to the law that is applicable to this case. You should use these instructions to guide you in your decisions.

All of the instructions of law given to you by the Court—those given to you at the beginning of the trial, those given to you during the trial, and these final instructions—must guide and govern your deliberations.

It is your duty as jurors to follow the law as stated in all of the instructions of the Court and to apply these rules of law to the facts as you find them to be from the evidence received during the trial.

Counsel have quite properly referred to some of the applicable rules of law in their closing arguments to you. If, however, any difference appears to you between the law as stated by counsel and that as stated by the Court in these instructions, you, of course, are to be governed by the instructions given to you by the Court.

You are not to single out any one instruction alone as stating the law, but must consider the instructions as a whole in reaching your decisions.

Neither are you to be concerned with the wisdom of any rule of law stated by the Court. Regardless of any opinion you may have as to what the law ought to be, it

would be a violation of your sworn duty to base any part of your verdict upon any other view or opinion of the law than that given in these instructions of the Court just as it would be a violation of your sworn duty, as the judges of the facts, to base your verdict upon anything but the evidence received in the case.

You were chosen as juror for this trial in order to evaluate all of the evidence received and to decide each of the factual questions presented by the allegations brought by the government in the Indictment and the plea of not guilty by the Defendant.

In resolving the issues presented to you for decision in this trial you must not be persuaded by bias, prejudice, or sympathy for or against any of the parties to this case or by any public opinion.

Justice—through trial by jury—depends upon the willingness of each individual juror to seek the truth from the same evidence presented to all the jurors here in the courtroom and to arrive at a verdict by applying the same rules of law as now being given to each of you in these instructions of the Court.

(1A Kevin F. O'Malley et al., Federal Jury Practice and Instructions, Criminal, § 12.01 (6th ed. 2019))

GOVERNMENT'S PROPOSED JURY INSTRUCTION NO. 7

Consider Only the Offense Charged

The Defendant is not on trial for any act or any conduct not specifically charged in the Indictment.

(1A Kevin F. O'Malley et al., Federal Jury Practice and Instructions, Criminal, § 12.09 (6th ed. 2019))

GOVERNMENT'S PROPOSED JURY INSTRUCTION NO. 8

Presumption of Innocence, Burden of Proof, and Reasonable Doubt

I instruct you that you must presume the Defendant to be innocent of the crimes charged. Thus the Defendant, although accused of crimes in the Indictment, begins the trial with a "clean slate"—with no evidence against him. The Indictment, as you already know, is not evidence of any kind. The Defendant is, of course, not on trial for any act or crime not contained in the Indictment. The law permits nothing but legal evidence presented before the jury in court to be considered in support of any charge against the Defendant. The presumption of innocence alone, therefore, is sufficient to acquit the Defendant.

The burden is always upon the prosecution to prove guilt beyond a reasonable doubt. This burden never shifts to a Defendant for the law never imposes upon a Defendant in a criminal case the burden or duty of calling any witnesses or producing any evidence. The Defendant is not even obligated to produce any evidence by cross-examining the witnesses for the Government.

It is not required that the government prove guilt beyond all possible doubt. The test is one of reasonable doubt. A reasonable doubt is a doubt based upon reason and common sense—the kind of doubt that would make a reasonable person hesitate to act. Proof beyond a reasonable doubt must, therefore, be proof of such a convincing character that a reasonable person would not hesitate to rely and act upon it in the most important of his or her own affairs.

Unless the Government proves, beyond a reasonable doubt, that the Defendant you are considering has committed each and every element of the offense charged in the Indictment, you must find that Defendant not guilty of the offense. If the jury views the evidence in the case as reasonably permitting either of two conclusions—one of innocence, the other of guilt—the jury must, of course, adopt the conclusion of innocence.

(1A Kevin F. O'Malley et al., Federal Jury Practice and Instructions, Criminal, § 12.10 (5th ed. 2000)(modified))

GOVERNMENT'S PROPOSED JURY INSTRUCTION NO. 9

Evidence Received in the Case - Stipulations, Judicial Notice, and Inferences Permitted

The evidence in this case consists of the sworn testimony of the witnesses—regardless of who may have called them—all exhibits received in evidence—regardless of who may have produced them—all facts which may have been agreed to or stipulated; and all facts and events which may have been judicially noticed.

When the attorneys on both sides stipulate or agree as to the existence of a fact, you may accept the stipulation as evidence and regard that fact as proved. You are not required to do so, however, since you are the sole judge of the facts.

The Court may have taken judicial notice of certain facts or events. When the Court declares that it has taken judicial notice of some fact or event, you may accept the Court's declaration as evidence and regard as proved the fact or event which has been judicially noticed. You are not required to do so, however, since you are the sole judge of the facts.

Any proposed testimony or proposed exhibit to which an objection was sustained by the Court and any testimony or exhibit ordered stricken by the Court must be entirely disregarded.

Anything you may have seen or heard outside the courtroom is not evidence and must be entirely disregarded.

Questions, objections, statements, and arguments of counsel are not evidence in the case [unless made as an admission or stipulation of fact.]

You are to base your verdict only on the evidence received in the case. In your consideration of the evidence received, however, you are not limited to the bald statements of the witnesses or to the bald assertions in the exhibits. In other words, you are not limited solely to what you see and hear as the witnesses testify or as the exhibits are admitted. You are permitted to draw from the facts which you find have been proved such reasonable inferences as you feel are justified in the light of your experience and common sense.

(1A Kevin F. O'Malley et al., Federal Jury Practice and Instructions, Criminal, § 12.03 (6th ed. 2019))

GOVERNMENT'S PROPOSED JURY INSTRUCTION NO. 10

The Question Is Not Evidence

The questions asked by a lawyer for either party to this case are not evidence. If a lawyer asks a question of a witness which contains an assertion of fact, therefore, you may not consider the assertion by the lawyer as any evidence of that fact. Only the answers are evidence.

(1A Kevin F. O'Malley et al., Federal Jury Practice and Instructions, Criminal, § 12.08 (6th ed. 2019))

GOVERNMENT'S PROPOSED JURY INSTRUCTION NO. 11

Multiple Counts

A separate crime or offense is charged in each count of the indictment. Each charge, and the evidence pertaining to it, should be considered separately. You must consider each count and the evidence relating to it separate and apart from every other count. You should return a separate verdict as to each count. Your verdict on any count should not control your verdict on any other count.

Eric Wm. Ruschky, Pattern Jury Instructions for Federal Criminal Cases, District of South Carolina § VII.R. p. 954 (2019 Online Edition).

GOVERNMENT'S PROPOSED JURY INSTRUCTION NO. 12

Multiple Defendants

It is your duty to give separate, personal consideration to the case of each individual Defendant. When you do so, you should analyze what the evidence in the case shows with respect to that individual, leaving out of consideration entirely any evidence admitted solely against some other Defendant or Defendants.

Eric Wm. Ruschky, Pattern Jury Instructions for Federal Criminal Cases, District of South Carolina § VII.S., p. 954 (2019 Online Edition).

GOVERNMENT'S PROPOSED JURY INSTRUCTION NO. 13

Credibility of Witnesses – Generally

You, as jurors, are the sole and exclusive judges of the credibility of each of the witnesses called to testify in this case and only you determine the importance or the weight, if any, that their testimony deserves. After making your assessment concerning the credibility of a witness, you may decide to believe all of that witness' testimony, only a portion of it, or none of it.

In making your assessment of that witness you should carefully scrutinize all of the testimony given by that witness, the circumstances under which each witness has testified, and all of the other evidence which tends to show whether a witness, in your opinion, is worthy of belief. Consider each witness's intelligence, motive to falsify, state of mind, and appearance and manner while on the witness stand. Consider the witness's ability to observe the matters as to which he or she has testified and consider whether he or she impresses you as having an accurate memory or recollection of these matters. Consider also any relation a witness may bear to either side of the case, the manner in which each witness might be affected by your verdict, and the extent to which, if at all, each witness is either supported or contradicted by other evidence in the case.

Inconsistencies or discrepancies in the testimony of a witness or between the testimony of different witnesses may or may not cause you to disbelieve or discredit such testimony. Two or more persons witnessing an incident or a transaction may simply see or hear it differently. Innocent misrecollection, like failure of recollection,

is not an uncommon human experience. In weighing the effect of a discrepancy, however, always consider whether it pertains to a matter of importance or an insignificant detail and consider whether the discrepancy results from innocent error or from intentional falsehood.

After making your own judgment or assessment concerning the believability of a witness, you can then attach such importance or weight to that testimony, if any, that you feel it deserves. You will then be in a position to decide whether the government has proven the charges beyond a reasonable doubt.

(1A Kevin F. O'Malley et. al., Federal Jury Practice and Instructions, Criminal, § 15.01 (6th ed. 2019))

GOVERNMENT'S PROPOSED JURY INSTRUCTION NO. 14

Credibility of Witnesses – Conviction of Felony

The testimony of a witness may be discredited or impeached by evidence showing that the witness has been convicted of a felony, a crime for which a person may receive a prison sentence of more than one year. Prior conviction of a crime that is a felony is one of the circumstances which you may consider in determining the credibility of that witness.

It is the sole and exclusive right of the jury to determine the weight to be given to any prior conviction as impeachment and the weight to be given to the testimony of anyone who has previously been convicted of a felony.

(1A Kevin F. O'Malley et. al., Federal Jury Practice and Instructions, Criminal, § 15.07 (6th ed. 2019))

GOVERNMENT'S PROPOSED JURY INSTRUCTION NO. 15

Credibility of Witnesses – The Defendant as a Witness

You should judge the testimony of the Defendant in the same manner as you judge the testimony of any other witness in this case.

(1A Kevin F. O'Malley et. al., Federal Jury Practice and Instructions, Criminal, § 15.12 (6th ed. 2019))

GOVERNMENT'S PROPOSED JURY INSTRUCTION NO. 16

Effect of the Defendant's Failure to Testify

The Defendant in a criminal case has an absolute right under our Constitution not to testify.

The fact that the Defendant did not testify must not be discussed or considered in any way when deliberating and in arriving at your verdict. No inference of any kind may be drawn from the fact that a Defendant decided to exercise his privilege under the Constitution and did not testify.

As stated before, the law never imposes upon a Defendant in a criminal case the burden or duty of calling any witnesses or of producing any evidence.

(1A Kevin F. O'Malley et. al., Federal Jury Practice and Instructions, Criminal, § 15.14 (6th ed. 2019)

GOVERNMENT'S PROPOSED JURY INSTRUCTION NO. 17

Credibility of Witness – Informant

The testimony of an informant, someone who provides evidence against someone else for money or for other personal reason or advantage, must be examined and weighed by you with greater care than the testimony of a witness who is not so motivated. You must determine whether the informant's testimony has been affected by self-interest, or by the agreement he has with the government, or his own interest in the outcome of this case, or by prejudice against the Defendant.

The testimony of a paid informant must be subjected to a higher degree of scrutiny as to both weight and credibility. This is true because you, the jury, must decide if such a witness has a greater motive to testify truthfully or falsely. If you conclude that the payment to the informant was fully or partially contingent upon the content of his testimony at trial or upon a finding of guilt, then you should subject his testimony to an even higher degree of scrutiny.

Eric Wm. Ruschky, Pattern Jury Instructions for Federal Criminal Cases, District of South Carolina § VII. H.2.D, p. 940-41 (2019 Online Edition).

GOVERNMENT'S PROPOSED JURY INSTRUCTION NO. 18

Credibility of Witnesses – Co-Defendant

The government has presented testimony from a witness who has [entered into a plea agreement with the government or received immunity]. The testimony of such a witness must be considered by you and weighed with greater care and caution, more so than the testimony of an ordinary witness.

You should not concern yourself with why the government made such an agreement with the witness. Your concern is whether the witness has given truthful testimony.

You must determine if the witness' testimony has been affected by [the plea agreement or immunity]. Such a witness has a motive to testify falsely.

You should not convict the Defendant upon the unsupported testimony of such a witness unless you believe that testimony beyond a reasonable doubt.

You should not draw any conclusion or inference of any kind about the guilt of the Defendant on trial from the fact that a witness [pled guilty to/received immunity for] a similar crime. It may not be used by you in any way as evidence against the Defendant on trial here.

Eric Wm. Ruschky, Pattern Jury Instructions for Federal Criminal Cases, District of South Carolina § VII. H.2.C., p. 939 (2019 Online Edition).

GOVERNMENT'S PROPOSED JURY INSTRUCTION NO. 19

Judging the Evidence

There is nothing particularly different in the way that a juror should consider the evidence in a trial from that in which any reasonable and careful person would deal with any very important question that must be resolved by examining facts, opinions, and evidence. You are expected to use your good sense in considering and evaluating the evidence in the case. Use the evidence only for those purposes for which it has been received and give the evidence a reasonable and fair construction in the light of your common knowledge of the natural tendencies and inclinations of human beings.

If the Defendant be proved guilty beyond a reasonable doubt, say so. If not proved guilty beyond a reasonable doubt, say so.

Keep constantly in mind that it would be a violation of your sworn duty to base a verdict upon anything other than the evidence received in the case and the instructions of the Court. Remember as well that the law never imposes upon a Defendant in a criminal case the burden or duty of calling any witnesses or producing any evidence because the burden of proving guilt beyond a reasonable doubt is always with the government.

(1A Kevin F. O'Malley et al., Federal Jury Practice and Instructions, Criminal, § 12.02 (6th ed. 2019))

GOVERNMENT'S PROPOSED JURY INSTRUCTION NO. 20

Direct and Circumstantial Evidence

There are two types of evidence which are generally presented during a trial—direct evidence and circumstantial evidence. Direct evidence is the testimony of a person who asserts or claims to have actual knowledge of a fact, such as an eyewitness. Circumstantial evidence is proof of a chain of facts and circumstances indicating the existence of a fact. The law makes no distinction between the weight or value to be given to either direct or circumstantial evidence. Nor is a greater degree of certainty required of circumstantial evidence than of direct evidence. You should weigh all the evidence in the case.

While you should consider only the evidence in the case, you are permitted to draw such reasonable inferences from the testimony and exhibits as you feel are justified in light of common experience. In other words, you may make deductions and reach conclusions which reason and common sense lead you to draw from the facts which have been established by the testimony and evidence in the case.

(1A Kevin F. O'Malley et al., Federal Jury Practice and Instructions, Criminal, §§ 12.04. 12.05 (6th ed. 2019))

GOVERNMENT'S PROPOSED JURY INSTRUCTION NO. 21

Charts and Summaries under Rule 1006 – Underlying Evidence Not Admitted

You will remember that certain charts and summaries were admitted in evidence. You may use those charts and summaries as evidence, even though the underlying documents and records were not presented and admitted. It is for you to decide how much weight, if any, you will give to them. In making that decision, you should consider all of the testimony you heard about the way in which they were prepared.

(Model Crim. Jury Instr. 8th Cir. 4.12 (2014)(modified))

GOVERNMENT'S PROPOSED JURY INSTRUCTION NO. 22

Charts and Summaries – Underlying Evidence Admitted

The Government presented certain charts and summaries in order to help explain the facts disclosed by certain documents and other records that were admitted as evidence in the case. The charts and summaries are not themselves evidence or proof of any facts. If the charts and summaries do not correctly reflect the evidence in the case, you should disregard them and determine the facts from the underlying evidence.

(Model Crim. Jury Instr. 3rd Cir. 4.10 (2018))

GOVERNMENT'S PROPOSED JURY INSTRUCTION NO. 23

Jury's Recollection Controls

If any reference by the Court or by counsel to matters of testimony or exhibits does not coincide with your own recollection of that evidence, it is your recollection which should control during your deliberations and not the statements of the Court or of counsel.

You are the sole judges of the evidence received in this case.

(1A Kevin F. O'Malley et al., Federal Jury Practice and Instructions, Criminal, § 12.07 (6th ed. 2019))

GOVERNMENT'S PROPOSED JURY INSTRUCTION NO. 24

Number of Witnesses Called Is Not Controlling

Your decision on the facts of this case should not be determined by the number of witnesses testifying for or against a party. You should consider all the facts and circumstances in evidence to determine which of the witnesses you choose to believe or not believe. You may find that the testimony of a smaller number of witnesses on one side is more credible than the testimony of a greater number of witnesses on the other side.

(1A Kevin F. O'Malley et al., Federal Jury Practice and Instructions, Criminal, § 14.16 (6th ed. 2019))

GOVERNMENT'S PROPOSED JURY INSTRUCTION NO. 25

No Obligation to Use Certain Investigative Techniques

You have heard testimony as to the manner in which the Government conducted its investigation in this case, including certain investigative methods or techniques that were used and certain investigative methods or techniques that were not used. In attempting to prove its case, the Government is under no obligation to use all of the investigative methods that are available to it or to use any particular method. The question is whether the evidence presented is sufficient to convince you beyond a reasonable doubt of the Defendant's guilt.

(Standing instruction of the Honorable Stephen Friot, United States District Judge, Western District of Oklahoma; accord United States v. Mason, 954 F.2d 219, 222 (4th Cir.1992)).

GOVERNMENT'S PROPOSED JURY INSTRUCTIONS NO. 26

"On or About"—Explained

The Indictment charges that the offenses alleged were committed "on or about," or "in or about" a certain date.

Although it is necessary for the government to prove beyond a reasonable doubt that the offense was committed on a date reasonably near the dates alleged in the Indictment, it is not necessary for the government to prove that the offense was committed precisely on the date charged.

(1A Kevin F. O'Malley et al., Federal Jury Practice and Instructions, Criminal, § 13.05 (6th ed. 2019))

GOVERNMENT'S PROPOSED JURY INSTRUCTION NO. 27

"Knowingly"—Defined

The term "knowingly," as used in these instructions to describe the alleged state of mind of the Defendant, means that the Defendant(s) were conscious and aware of their actions or omissions, realized what they were doing or what was happening around them, and did not act because of ignorance, mistake, or accident.

(1A Kevin F. O'Malley et al., Federal Jury Practice and Instructions, Criminal, § 17.04 (6th ed. 2019))

GOVERNMENT'S PROPOSED JURY INSTRUCTION NO. 28

Deliberate Ignorance – Explained

The Government may prove that the Defendant acted "knowingly" by proving, beyond a reasonable doubt, that he deliberately closed his eyes to what would otherwise have been obvious to him. No one can avoid responsibility for a crime by deliberately ignoring what is obvious. A finding beyond a reasonable doubt of an intent of the Defendant to avoid knowledge or enlightenment would permit the jury to find knowledge. Stated another way, a person's knowledge of a particular fact may be shown from a deliberate or intentional ignorance or deliberate or intentional blindness to the existence of that fact.

It is, of course, entirely up to you as to whether you find any deliberate ignorance or deliberate closing of the eyes and any inferences to be drawn from any such evidence.

You may not conclude that the Defendant had knowledge, however, from proof of a mistake, negligence, carelessness, or a belief in an inaccurate proposition.

(1A Kevin F. O'Malley et. al., Federal Jury Practice and Instructions, Criminal, § 17.09 (6th ed. 2019); See, e.g., United States v. Hale, 857 F.3d 158, 168-69 (4th Cir. 2017); United States v. Jinwright, 683 F.3d 471, 478 (4th Cir. 2012); United States v. Schnabel, 939 F.2d 197, 203-04 (4th Cir. 1991) ("[W]hen there is evidence of both actual knowledge and deliberate ignorance . . . a willful blindness instruction is appropriate.")

GOVERNMENT'S PROPOSED JURY INSTRUCTION NO. 29

Proof of Knowledge or Intent

The intent of a person or the knowledge that a person possesses at any given time may not ordinarily be proved directly because there is no way of directly scrutinizing the workings of the human mind. In determining the issue of what a person knew or what a person intended at a particular time, you may consider any statements made or acts done or omitted by that person and all other facts and circumstances received in evidence which may aid in your determination of that person's knowledge or intent.

You may infer, but you are certainly not required to infer, that a person intends the natural and probable consequences of acts knowingly done or knowingly omitted. It is entirely up to you, however, to decide what facts to find from the evidence received during this trial.

(1A Kevin F. O'Malley et al., Federal Jury Practice and Instructions, Criminal, § 17.07 (6th ed. 2019))

GOVERNMENT'S PROPOSED JURY INSTRUCTION NO. 30

Opinion Evidence – The Expert Witness

The rules of evidence ordinarily do not permit witnesses to testify as to their own opinions or their own conclusions about important questions in a trial. An exception to this rule exists as to those witnesses who are described as "expert witnesses." An "expert witness" is someone who, by education or by experience, may have become knowledgeable in some technical, scientific, or very specialized area. If such knowledge or experience may be of assistance to you in understanding some of the evidence or in determining a fact, an "expert witness" in that area may state an opinion as to a matter in which he or she claims to be an expert.

You should consider each expert opinion received in evidence in this case and give it such weight as you may think it deserves. You should consider the testimony of expert witnesses just as you consider other evidence in this case. If you should decide that the opinion of an expert witness is not based upon sufficient education or experience, or if you should conclude that the reasons given in support of the opinion are not sound, or if you should conclude that the opinion is outweighed by other evidence [including that of other "expert witnesses"], you may disregard the opinion in part or in its entirety.

As I have told you several times, you—the jury—are the sole judges of the facts of this case.

(1A Kevin F. O'Malley et al., Federal Jury Practice and Instructions, Criminal, § 14.01 (6th ed. 2019))

GOVERNMENT'S PROPOSED JURY INSTRUCTION NO. 31

Charged in the Conjunctive – Explained

The Court instructs the jury that although the Indictment may charge a Defendant with committing an offense in several ways, using conjunctive language, it is sufficient if the United States proves the offense in only one of the ways charged. In other words, the jury may convict if it finds that all elements of the charged offense have been proven beyond a reasonable doubt, even if it does not believe that the offense has been committed in some of the specific ways identified in the Indictment.

(United States v. Perry, 560 F. 3d 246, 256 (4th Cir. 2009) ("It is well established that when the Government charges in the conjunctive, the district court can instruct the jury in the disjunctive."); United States v. Montgomery, 262 F. 3d 233, 242 (4th Cir. 2001)).

GOVERNMENT'S PROPOSED JURY INSTRUCTION NO. 32

Introduction to Offense Instructions

The Fourth Superseding Indictment, which I will hereinafter refer to simply as the "Indictment," charges a number of separate crimes, called "counts," against the Defendant. Each count has a number. You will be given a copy of the Indictment to refer to during your deliberations.

Count 1 charges that LEONID ISAAKOVICH TEYF, TATYANA ANATOLYEVNA TEYF, a/k/a TATIANA TEYF, and others, knowingly and intentionally conspired to engage in money laundering. I will give you specific instructions on conspiracy.

The remaining counts in the Indictment charge the Defendant with what are termed "substantive offenses."

Specifically, Counts 2 through 26 and Counts 33 through 43 charge the Defendant with substantive money laundering transactions.

Count 27 charges the Defendant with bribery of a federal official.

Count 28 charges the Defendant with using a facility of interstate commerce in the commission of a murder for hire.

Count 29 charges the Defendant with aiding and abetting the possession of a firearm with an obliterated serial number.

Count 30 charges the Defendant with conspiracy to harbor illegal aliens.

Count 31 charges the Defendant with visa fraud.

Counts 44 through 47 charge the Defendant(s) with filing a false statement on his/her tax returns.

Counts 48 through 50 charge the Defendant(s) with failing to file a required form pertaining to foreign financial interests.

I will explain the law governing each of these substantive offenses.

GOVERNMENT'S PROPOSED JURY INSTRUCTION NO. 33

Count 1 - Nature of the Offense

Count 1 charges that beginning on a date no later than on or about March 2, 2011, and continuing through the present, in the Eastern District of North Carolina and elsewhere, the Defendants, LEONID ISAAKOVICH TEYF and TATYANA ANATOLYEVNA TEYF, also known as TATIANA TEYF, and others known and unknown to the Grand Jury, knowingly combined, conspired and agreed among themselves to commit offenses against the United States in violation of Title 18, United States Code, Section 1956 and Section 1957, to wit: to knowingly conduct and attempt to conduct financial transactions affecting interstate commerce and foreign commerce, which transactions involved the proceeds of a specified unlawful activity, knowing that the transactions were designed in whole or in part to conceal and disguise the nature, location, source, ownership, and control of the proceeds of specified unlawful activity, and that while conducting and attempting to conduct such financial transactions, knew that the property involved in the financial transactions represented the proceeds of some form of unlawful activity, in violation of Title 18, United States Code, Section 1956(a)(l)(B)(i);- and, by knowingly engaging and attempting to engage in monetary transactions by, through or to a financial institution, affecting interstate and foreign commerce, in criminally derived property of a value greater than $10,000, such property having been derived from a specified unlawful activity, in violation of Title 18, United States Code, Section 1957.

All in violation of Title 18, United States Code, Section 1956(h).

GOVERNMENT'S PROPOSED JURY INSTRUCTION NO. 34

The Statute Defining the Offense Charged

Count 1

Title 18, United States Code, Section 1956(h), makes it a crime to conspire to commit violations of 18 U.S.C. 1956(a)(l)(B)(i) as well as to conspire to commit violations of § 1957, as charged in Count 1. Title 18, United States Code, Section 1956(a)(l)(B)(i) makes it a crime to conduct financial transactions with the intent to conceal the proceeds of an unlawful activity; Section 1957 of Title 18 of the United States Code makes it unlawful to spend monies in amounts greater than $10,000, if the monies derived from specified criminal activity.

GOVERNMENT'S PROPOSED JURY INSTRUCTION NO. 35

The Essential Elements of the Offense Charged

Count 1

For you to find the Defendant guilty of Count 1, the government must prove each of the following beyond a reasonable doubt:

(1) the existence of an agreement between two or more persons to commit one or more of the substantive money laundering offenses proscribed under 18 U.S.C § 1956(a) or 1957;

(2) that the Defendant knew that the money laundering proceeds had been derived from an illegal activity; and

(3) that the Defendant knowingly and voluntarily became part of the conspiracy.

United States v. Farrell, 921 F.3d 116, 136–37 (4th Cir.), cert. denied, 140 S. Ct. 269, 205 L. Ed. 2d 182 (2019)

Eric Wm. Ruschky, Pattern Jury Instructions for Federal Criminal Cases, District of South Carolina § III. 18 U.S.C. 1956(h), p. 497 et. seq. (2019 Online Edition).

GOVERNMENT'S PROPOSED JURY INSTRUCTION NO. 36

Conspiracy – Nature of Conspiracy

Count 1

A criminal conspiracy is an agreement or a mutual understanding knowingly made or knowingly entered into by at least two people to violate the law by some joint or common plan or course of action. A conspiracy is, in a very true sense, a partnership in crime.

The Government must prove that the conspiracy came into existence during or reasonably near the period of time charged in the Indictment and the Defendant knowingly joined in the conspiracy within or reasonably near the same time period.[1]

The Government must prove that the Defendant and at least one other person knowingly and deliberately arrived at an agreement or understanding that they, and perhaps others, would violate the laws of the United States by means of some common plan or course of action, as alleged in Count 1 of the Indictment. It is proof of this conscious understanding and deliberate agreement by the alleged members that

[1] In United States v. Queen, 132 F.3d 991 (4th Cir. 1997), the defendant was charged with conspiring to tamper with a witness during the period from February 1994 to March 1995. The district court charged that the first two elements of conspiracy are proved:

> if you find beyond a reasonable doubt that a conspiracy as charged in the indictment came into existence at any point in time within or reasonably near to the window from February 1994 to March 1995, and that [the defendant] knowingly joined in the conspiracy at some point within or reasonably near to that same window ....

Id. at 999 n.5. The Fourth Circuit concluded that the jury "may find that the starting date of a conspiracy begins anytime in the time window alleged, so long as the time frame alleged places the defendant sufficiently on notice of the acts with which he is charged." Id. at 999.

should be central to your consideration of the charge of conspiracy.

A conspiracy may exist even if a conspirator does not agree to commit or facilitate each and every part of the substantive offense. The partners in a criminal plan must agree to pursue the same criminal objective and may divide up the work, yet each is responsible for the acts of each other.[2]

The conduct of alleged conspirators can give rise to an inference that an agreement exists.[3]

A conspiracy or agreement to violate the law, like any other kind of agreement or understanding, need not be formal, written, or even expressed directly in every detail. To prove the existence of a conspiracy or an illegal agreement, the Government is not required to produce a written contract between the parties or even produce evidence of an express oral agreement spelling out all of the details of the understanding. To prove that a conspiracy existed, moreover, the Government is not required to show that all of the members of the alleged conspiracy were named or charged, or that all of the people whom the evidence shows were actually members of a conspiracy agreed to all of its means or methods.

The essence of the crime of conspiracy is an agreement to commit a criminal act. But there does not have to be evidence that the agreement was specific or explicit. By its very nature, a conspiracy is clandestine and covert, thereby frequently resulting in little direct evidence of such an agreement. Therefore, the Government

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2 Salinas v. United States, 522 U.S. 52, 63-64 (1997).
3 United States v. Collazo, 732 F.2d 1200, 1205 (4th Cir. 1984).

may prove a conspiracy by circumstantial evidence. Circumstantial evidence tending to prove a conspiracy may consist of a Defendant's relationship with other members of the conspiracy, the length of this association, the Defendant's attitude and conduct, and the nature of the conspiracy.

One may be a member of a conspiracy without knowing the full scope of the conspiracy, or all of its members, without taking in the full range of its activities or over the whole period of its existence. It is not necessary for the Government to prove that the conspiracy had a discrete, identifiable organizational structure. The agreement to act together need not result in any such formal structure. It may be only a loosely-knit, haphazard, or ill-conceived association of members linked only by their mutual interest in sustaining the overall enterprise. The Government need not prove that the Defendant knew all the particulars of the conspiracy or all of his co-conspirators. It is sufficient if the Defendant played only a minor part in the conspiracy. Thus, a variety of conduct can constitute participation in a conspiracy.

Once it has been shown that a conspiracy existed, the evidence need only establish a slight connection between the Defendant and the conspiracy. The Government must produce evidence to prove the Defendant's connection beyond a reasonable doubt, but the connection itself may be slight, because the Defendant does not need to know all of his co-conspirators, understand the reach of the conspiracy, or participate in all enterprises of the conspiracy, or have joined the conspiracy from

its inception.[4]

A conspirator must intend to further an endeavor which, if completed, would be a federal crime, but it suffices that he adopt the goal of furthering or facilitating the criminal endeavor. He may do so in any number of ways short of agreeing to undertake all of the acts necessary for the crime's completion. One can be a conspirator by agreeing to facilitate only some of the acts leading to the criminal objective.

The statements of an alleged co-conspirator may be considered in determining the existence of the conspiracy.[5]

If the Government proves that the Defendant understood the unlawful nature of the agreement and intentionally joined in that agreement on one occasion, that is sufficient to find him guilty of conspiracy.

Mere knowledge, acquiescence, or approval of a crime is not enough to establish that an individual is part of a conspiracy.[6] The Government must show that the Defendant knew the purpose of the conspiracy and took some action indicating his participation.[7]

Unless the Government proves beyond a reasonable doubt that a conspiracy, as just explained, actually existed, then you must acquit the Defendant of the charge

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4 The foregoing principles derive from United States v. Burgos, 94 F.3d 849, 857-61 (4th Cir. 1996) (en banc).
5 Salinas, 522 U.S. at 65.
6 United States v. Pupo, 841 F.2d 1235, 1238 (4th Cir. 1988) (en banc).
7 United States v. Chorman, 910 F.2d 102, 109 (4th Cir. 1990)

in Count 1.

The Indictment at Count 1 alleges the conspiracy to commit money laundering had two objects: concealment, in violation of 18 U.S.C § 1956(a)(1()(B)(i), and spending criminally derived proceeds, in violation of 18 U.S.C. § 1957. I will now instruct you on these objects of the charged conspiracy.

(Eric Wm. Ruschky, Pattern Jury Instructions for Federal Criminal Cases, District of South Carolina, 21 U.S.C. § 846, (Emily Deck Harrill, ed., 2016 Online Edition); 2 Kevin F. O'Malley et. al., Federal Jury Practice and Instructions, Criminal, § 31.04 (6th ed. 2019)).

GOVERNMENT'S PROPOSED JURY INSTRUCTION NO. 37

Count 1, Object 1– Conducting Financial Transactions to Conceal Criminal Proceeds
The Statute Defining the Offense Charged

Section 1956 of Title 18 of the United States Code makes it a money laundering crime under certain circumstances to participate in a financial transaction that involves property constituting the proceeds of specified unlawful activity. In this case, the Defendant is charged in Count 1 with conspiracy to violate Section 1956(a)(1)(B). This section provides:

> Whoever, knowing that the property involved in a financial transaction represents the proceeds of some form of unlawful activity, conducts or attempts to conduct such a financial transaction which in fact involves the proceeds of specified unlawful activity—
>
> (B) knowing that the transaction is designed in whole or in part—
>
> (i) to conceal or disguise the nature, the location, the source, the ownership, or the control of the proceeds of specified unlawful activity . . .

shall be guilty of a crime.

GOVERNMENT'S PROPOSED JURY INSTRUCTION NO. 38

The Essential Elements of the Conspiracy Object 1: Concealment Money Laundering

For you to find the Defendant guilty of the money laundering offenses alleged in Count 1 with concealment as the object, the Government must prove each of the following essential elements beyond a reasonable doubt:

- First, the Defendant conducted or attempted to conduct a financial transaction in or affecting interstate commerce;
- Second, the Defendant knew that the money or property involved in the transaction was the proceeds of some form of unlawful activity;
- Third, the money or property was, in fact, the proceeds of unlawful activity – namely, as alleged in the Indictment, an offense against a foreign nation (Russia) involving bribery of a public official and the misappropriation, theft, or embezzlement of public funds by or for the benefit of a public official; and
- Fourth, the Defendant knew that the transaction was designed, in whole or in part, to conceal or disguise the nature, location, source, ownership, or control of the proceeds.

(Adapted from Pattern Crim. Jury Instr. 11th Cir. OI O74.2 (2016))

GOVERNMENT'S PROPOSED JURY INSTRUCTION NO. 39

The Nature of the Offense Charged

Count 1 Object 2, and Counts 2 through 26 and 33 through 43 – Engaging in Monetary Transactions in Criminally Derived Property

Count 1 also charges as an object of the conspiracy spending money laundering. Additionally, Counts 2 through 26 and 33 through 43 charge specific actions as violating this statute, or "substantive counts" of money laundering. The following instructions apply both to Count 1 charging the object of the conspiracy as to violate § 1957, and as to these substantive counts.

Counts 2 through 26 and 33 through 43 charge that on or about the dates set forth in the Indictment, in the Eastern District of North Carolina and elsewhere, the Defendants, LEONID ISAAKOVICH TEYF, TATYANA ANATOLYEVNA TEYF (also known as TATIANA TEYF), aiding and abetting each other, did knowingly engage and attempt to engage in monetary transactions by, through or to a financial institution, affecting interstate or foreign commerce, in criminally derived property of a value greater than $10,000, such property having been derived from a specified unlawful activity, that is, an offense against a foreign nation (Russia) involving bribery of a public official and the misappropriation, theft, or embezzlement of public funds by or for the benefit of a public official,, in violation of Title18, United States Code, Section 1957.

GOVERNMENT'S PROPOSED JURY INSTRUCTION NO. 40

The Statute Defining the Offense Charged

Counts 1 through 26 and 33 through 43

Section 1957 of Title 18 of the United States Code provides, in pertinent part, that it is a crime "to knowingly engage[] or attempt[] to engage in a monetary transaction in criminally derived property that is of a value greater than $10,000 and is derived from specified unlawful activity."

18 U.S.C. § 1957.

GOVERNMENT'S PROPOSED JURY INSTRUCTION: NO. 41

The Essential Elements of the Offense Charged

Counts 1 through 26 and 33 through 43

It is a federal crime for anyone to engage in certain kinds of financial transactions commonly known as money laundering. For you to find the Defendant guilty of the money laundering offenses alleged in Counts 1 through 26 and 33 through 43 the Government must prove each of the following essential elements beyond a reasonable doubt:

- First, the Defendant engaged or attempted to engage in a monetary transaction in or affecting interstate commerce;
- Second, the monetary transaction involved criminally derived property of a value greater than $10,000;
- Third, the property was, in fact, the proceeds of specified unlawful activity – namely, an offense against a foreign nation (Russia) involving bribery of a public official and the misappropriation, theft, or embezzlement of public funds by or for the benefit of a public official;
- Fourth, the Defendant knew that the transaction involved proceeds of some criminal activity; and
- Fifth, the transaction took place in the United States.

(Adapted from Modern Federal Jury Instructions – Criminal, Instr. No. 50A-26; Pattern Crim. Jury Instr. 11th Cir. OI O74.6 (2016))

GOVERNMENT'S PROPOSED JURY INSTRUCTION NO. 42

"Monetary Transaction" – Explained

Counts 1 through 26 and 33 through 43

The term "monetary transaction" means the deposit, withdrawal, transfer, or exchange, in or affecting interstate or foreign commerce, of funds or a monetary instrument by, through, or to a financial institution, which includes a business engaged in vehicle sales. A "monetary transaction" includes a transaction that involves the transfer of title to a vehicle.

The term "interstate or foreign commerce" means commerce between any combination of states, territories or possessions of the United States, or between the United States and a foreign country.

You must find that the transaction affected interstate commerce in some way, however minimal.

(Adapted from Modern Federal Jury Instructions – Criminal, Instr. No. 50A-27; see also United States v. Bennett, 2016 WL 6884049, at *3 (E.D.N.C. 2016))

GOVERNMENT'S PROPOSED JURY INSTRUCTION NO. 43

"Criminally Derived Property" – Explained

Counts 1 through 26 and 33 through 43

The term "criminally derived property" means any property constituting, or derived from, proceeds obtained from a criminal offense.

The term "proceeds" means any property derived from or obtained or retained, directly or indirectly, through some form of unlawful activity, including the gross receipts of such activity.

The Government is not required to prove that all of the property involved in the transaction was derived from a crime, nor is the Government required to trace each dollar to a particular criminal event. However, the Government is required to prove that at least $10,000 worth of the property was criminally derived.

(Modern Federal Jury Instructions – Criminal, Instr. No. 50A-28 (modified); see also United States v. Moore, 27 F.3d 969, 967-77 (4th Cir. 1994))

GOVERNMENT'S PROPOSED JURY INSTRUCTION NO. 44

Knowledge – Explained

Counts 1 through 26 and 33 through 43

The Government must prove beyond a reasonable doubt that the Defendant knowingly engaged in an unlawful monetary transaction, as I have defined. It does not matter whether the Defendant knew the precise nature of the crime or the particular offense from which the property derived. But the Government must prove that the Defendant knew that the property involved in the monetary transaction was obtained or derived from committing some crime.

(Adapted from Modern Federal Jury Instructions – Criminal, Instr. No. 50A-30; Pattern Crim. Jury Instr. 11th Cir. OI O74.6 (2016))

GOVERNMENT'S PROPOSED JURY INSTRUCTION NO. 45

"Financial Transaction" – Explained

Counts 1 through 26 and 33 through 43

The Government must prove beyond a reasonable doubt that the Defendant conducted or attempted to conduct a financial transaction involving the proceeds of specified unlawful activity, namely, an offense against a foreign nation (Russia) involving bribery of a public official and the misappropriation, theft, or embezzlement of public funds by or for the benefit of a public official.

The term "conducts" includes initiating, concluding, or participating in initiating or concluding a transaction.

The term "financial transaction" includes a transaction involving a financial institution that is engaged in, or the activities which affect, interstate or foreign commerce in any way or degree, or a transaction that in any way or degree affects interstate or foreign commerce and involves the movement of funds by wire or other means, or involves one or more monetary instruments.

A "transaction involving a financial institution" includes a deposit, withdrawal, transfer between accounts, exchange of currency, or any other payment, transfer, or delivery by, through, or to a financial institution by whatever means.

The term "interstate or foreign commerce" means commerce between any combination of states, territories or possessions of the United States, or between the United States and a foreign country. If you find that a transaction at issue was conducted at a financial institution insured by the Federal Deposit Insurance

Corporation (FDIC), you may, but are not required to, infer that the transaction affected interstate commerce.

The term "monetary instrument" includes, among other things, coin or currency of the United States.

The term "proceeds" means any property derived from or obtained or retained, directly or indirectly, through some form of unlawful activity, including the gross receipts of such activity.

The term "specified unlawful activity" means any one of a variety of offenses defined by the statute. In this case, the Government has alleged that the funds in question were the proceeds of an offense against a foreign nation (Russia) involving bribery of a public official and the misappropriation, theft, or embezzlement of public funds by or for the benefit of a public official. I instruct you that, as a matter of law, such offense falls within that statutory definition. However, it is for you to determine whether the funds were the proceeds of that unlawful activity.

(Modern Federal Jury Instructions – Criminal, Instr. No. 50A-8; see also United States v. Peay, 972 F.2d 71, 74 (4th Cir.1992))

GOVERNMENT'S PROPOSED JURY INSTRUCTION NO. 46

Elements of Underlying Specified Unlawful Activity

Counts 1 through 26 and 33 through 43

The Indictment, at Counts 1 through 26 and 33 through 43, charge the use of funds derived from the specified unlawful activity, namely an offense against a foreign nation (Russia) involving bribery of a public official and the misappropriation, theft, or embezzlement of public funds by or for the benefit of a public official. What follows are the Russian Criminal Codes potentially applicable to the evidence.

Theft and/or Fraud (Articles 158 and 159 of the Criminal Code). Theft is defined at Article 158 of the Criminal Code as the 'secret misappropriation' of another's property. 'Misappropriation' is further defined as "the unlawful uncompensated removal or conversion of the property of another for the benefit of the guilty person or other persons for selfish aims that has caused damage to the title holder or other person in possession of the property."

Embezzlement (Article 160 of the Criminal Code). Embezzlement is defined at Article 160 of the Criminal Code as the misappropriation of property of another that has been entrusted to the guilty person. The primary difference between the crime of embezzlement and theft or fraud is that the accused did not need obtain the property from another through secret acts or deceit, since the property has already been entrusted to him or her. Embezzlement occurs where a person entrusted with possession of or lawful authority over the property abuses that opportunity or

authority to convert property within his or her lawful possession or authority for the benefit or him- or herself or others.

Spending Budgetary Funds Contrary to Purpose (Article 285.1 of the Criminal Code). "The spending of budget funds by the officer of a recipient of budget funds for purposes contrary to the conditions of their receipt as defined by the approved budget, budget list, notification of budget appropriations, estimates of income and expenses or other document that is the basis for receiving the budget funds [is an offence]."

Bribery (Articles 290, 291 and 204 of the Criminal Code). Articles 290 and 291 of the Criminal Code (as in force in 2010-2012) defined the offenses of receipt or payment of a bribe as follows:

"Article 290. Receipt of a bribe

1. [It is an offence for] an official, personally or through an intermediary, to receive a bribe in the form of money, securities, other property or benefits of a proprietary nature for actions or inaction for the benefit of the person giving the bribe or the persons he represents, if such actions or inaction come within the official's official powers or, by virtue of his office he may facilitate such actions or inaction, as well as general patronage or indulgence in one's office. […]

Article 291. Giving a bribe

2. [It is an offence to] give a bribe to an official personally or through an intermediary[.]" […]"

GOVERNMENT'S PROPOSED JURY INSTRUCTION NO. 47

Acts and Declarations of Co-Conspirators

Count 1

Evidence has been received in this case that certain persons, who are alleged to be co-conspirators of the Defendant, have done or said things during the existence or life of the alleged conspiracy in order to further or advance its goals.

Such acts and statements of these other individuals may be considered by you in determining whether or not the government has proven the charges in Count 1.

Since these acts may have been performed and these statements may have been made outside the presence of the Defendant, and even done or said without the Defendant's knowledge, these acts or statements should be examined with particular care by you before considering them against the Defendant who did not do the particular act or made a particular statement.

Acts done or statements made by an alleged co-conspirator before a Defendant joined a conspiracy may be considered by you in determining whether the government has sustained its burden of proof in Count 1.

Acts done or statements made before an alleged conspiracy began or after an alleged conspiracy ended, however, may only be considered by you regarding the person who performed that act or made that statement.

(2 Kevin F. O'Malley et. al., Federal Jury Practice and Instructions, Criminal, § 31.06 (6th ed. 2019)) (modified))

GOVERNMENT'S PROPOSED JURY INSTRUCTION NO. 48

Count 27 - Nature of the Offense

Count 27 charges that on or about May 23, 2018, in the Eastern District of North Carolina, the Defendant, LEONID ISAAKOVICH TEYF, did, directly and indirectly, corruptly give, offer, and promise a thing of value to a public official, with intent to induce a public official to do an act and omit to do an act in violation of his official duty, that is, by giving $10,000 to an employee of the United States Department of Homeland Security to cause an individual to be deported from the United States, in violation of Title 18, United States Code, Section 201(b)(l).

GOVERNMENT'S PROPOSED JURY INSTRUCTION NO. 49

The Statute Defining the Offense Charged

Title 18, United States Code, Section 201(b)(1) provides that it is a criminal act when "[w]hoever—

(1) directly or indirectly, corruptly gives, offers or promises anything of value to any public official or person who has been selected to be a public official, or offers or promises any public official or any person who has been selected to be a public official to give anything of value to any other person or entity, with intent—

(C) to induce such public official or such person who has been selected to be a public official to do or omit to do any act in violation of the lawful duty of such official or person. . ."

18 U.S.C. § 201(b)(1)(C).

GOVERNMENT'S PROPOSED JURY INSTRUCTION NO. 50

Count 27 - The Essential Elements of the Offense Charged

For you to find the Defendant guilty of Count 27, the government must prove each of the following beyond a reasonable doubt:

- First, that the Defendant, directly or indirectly, gave, offered, or promised anything of value to any public official, and
- Second, that the Defendant did so corruptly with the intent to influence any official act or to induce a public official to do or omit to do any act in violation of his official duty.

Eric Wm. Ruschky, Pattern Jury Instructions for Federal Criminal Cases, District of South Carolina § III. 18 U.S.C. § 201(b)(1), p. 55 (2019 Online Edition).

GOVERNMENT'S PROPOSED JURY INSTRUCTION NO. 51

Count 27 – "Public Official" - Defined

"Public official" means Member of Congress, Delegate, or Resident Commissioner, either before or after such official has qualified, or an officer or employee or person acting for or on behalf of the United States, or any department, agency or branch of Government thereof, including the District of Columbia, in any official function, under or by authority of any such department, agency, or branch of Government, or a juror.

Eric Wm. Ruschky, Pattern Jury Instructions for Federal Criminal Cases, District of South Carolina § III. 18 U.S.C. § 201(b), p. 58 (2019 Online Edition).

GOVERNMENT'S PROPOSED JURY INSTRUCTION NO. 52

Count 27 – "Official Act" - Defined

"Official act" means any decision or action on any question, matter, cause, suit, proceeding or controversy, which may at any time be pending, or which may by law be brought before any public official, in such official's official capacity, or in such official's place of trust or profit.

Eric Wm. Ruschky, Pattern Jury Instructions for Federal Criminal Cases, District of South Carolina § III. 18 U.S.C. § 201(b), p. 60 (2019 Online Edition).

GOVERNMENT'S PROPOSED JURY INSTRUCTION NO. 53

Count 27 – "Corruptly" – Defined

A bribe requires that the payment be made or received corruptly, that is with the intent either to induce a specific act or be influenced in performance of a specific act. An act is done "corruptly" if is done with the intent to receive a specific benefit in return for the payment.

"[F]or bribery there must be a quid pro quo -a specific intent to give or receive something of value in exchange for an official act." Not every payment made to influence or reward an official is intended to corrupt him. A payor has the intent to corrupt an official only if he makes a payment or promise with the intent to engage in some fairly specific quid pro quo with that official. The Defendant must have intended for the official to engage in some specific act or omission or course of action or inaction in return for the payment charged in the indictment.

To prove bribery, "the government is not required to prove an expressed intention (or agreement) to engage in a quid pro quo. Such an intent may be established by circumstantial evidence.

Eric Wm. Ruschky, Pattern Jury Instructions for Federal Criminal Cases, District of South Carolina § III. 18 U.S.C. § 201(b), pp. 62-63 (2019 Online Edition).

GOVERNMENT'S PROPOSED JURY INSTRUCTION NO. 54

"Something of Value" – Defined

The phrase "something of value" means any item, whether tangible or intangible, that the person giving or offering or the person demanding or receiving considers to be worth something.

The phrase "something of value" includes a sum of money, favorable treatment, a job, or special consideration.

Kevin F. O'Malley et. al.,Federal Jury Practice and Instructions, Criminal, § 27.10 (5th ed. 2000))

GOVERNMENT'S PROPOSED JURY INSTRUCTION NO. 55

Lawfulness of Official Act Not a Defense

The government does not have to prove that the official receiving the bribe took any affirmative action to perform his part of the corrupt bargain.

It is not a defense that the official act sought to be influenced would have been done anyway regardless of the fact that the bribe was received or accepted. That is to say, even if the Defendant acted as he or she normally would if the bribe had not been requested, the crime of bribery has still been committed.

It is not necessary to find that the action or result sought by whoever hypothetically gives the bribe is something that was in fact within the power of the official in question. It would not be possible, on the other hand, for you to find a case of bribery if the action sought was so far outside the purview of the official's duties or possible power or possible authority that it would be unreasonable for any reasonable man to have supposed the official could have done anything about that particular subject.

Eric Wm. Ruschky, Pattern Jury Instructions for Federal Criminal Cases, District of South Carolina § III. 18 U.S.C. § 201(b), pp. 61-62 (2019 Online Edition).

GOVERNMENT'S PROPOSED JURY INSTRUCTION NO. 56

Count 28 – Nature of the Offense

Count 28 of the Indictment charges that on or about June 20, 2018, in the Eastern District of North Carolina and elsewhere, the Defendant, LEONID ISAAKOVICH TEYF, did knowingly use or cause another to use a facility of interstate commerce, to wit, a cellular telephone, with intent that the murder of A.G. be committed in violation of the laws of North Carolina as consideration for an agreement to pay things of pecuniary value, to wit: a sum of U.S. currency.in violation of Title 18, United States Code, Section 1958.

GOVERNMENT'S PROPOSED JURY INSTRUCTION NO. 57

Count 28 – The Statute Defining the Offense

Title 18, United States Code, Section 1958 provides that "Whoever travels in or causes another (including the intended victim) to travel in interstate or foreign commerce, or uses or causes another (including the intended victim) to use the mail or any facility of interstate or foreign commerce, with intent that a murder be committed in violation of the laws of any State or the United States as consideration for the receipt of, or as consideration for a promise or agreement to pay, anything of pecuniary value," violates the law.

18 U.S.C. § 1958.

GOVERNMENT'S PROPOSED JURY INSTRUCTION NO. 58

Count 28 – Essential Elements of the Offense

Title 18, United States Code, Section 1958 makes it a crime to use certain interstate facilities in the commission of a murder-for-hire. For you to find the Defendant guilty, the government must prove each of the following beyond a reasonable doubt:

First, that the Defendant used or caused another person to use the mail or any facility of interstate or foreign commerce;

Second, that the Defendant did so with the intent that a murder be committed (in violation of the laws of any state or the United States)[the law should be specified, and the elements identified for the jury]; and

Third, as consideration for the receipt of or promise or agreement to pay anything of pecuniary value.

Eric Wm. Ruschky, Pattern Jury Instructions for Federal Criminal Cases, District of South Carolina § III. 18 U.S.C. § 1958, p. 506 et. seq. (2019 Online Edition).

GOVERNMENT'S PROPOSED JURY INSTRUCTION NO. 59

Count 28 – Elements of "murder" as set forth in N.C. Gen. Stat §§ 14-17

North Carolina General Statute § 14-17 provides that a person who:

1) kills

2) another human being

3)(a)(i) with malice and

3)(a)(ii) with a specific intent to kill formed after premeditation and deliberation,

Is guilty of first degree murder.

North Carolina Crimes: A Guidebook on the Elements of Crime, Ch. 6, Homicide, § 14-17, pp. 83-84 (2017).

GOVERNMENT'S PROPOSED JURY INSTRUCTION NO. 60

Count 28 - Definitions

"Anything of pecuniary value" means anything of value in the form of money, negotiable instrument, a commercial interest, or anything else the primary significance of which is economic advantage. [§ 1958(b)(1)].

"Facility of interstate commerce" includes means of transportation and communication. [§ 1958(b)(2)]. The Defendant's use of the facility need not be in interstate or foreign commerce, that is, use of a facility of interstate commerce is sufficient, regardless of whether the particular transaction in question was interstate or wholly interstate.

"Interstate commerce" includes commerce between one state, territory, possession, of the District of Columbia and another state, territory, possession or the District of Columbia. [18 U.S.C. § 10].

"Foreign commerce" includes commerce with a foreign country. [18 U.S.C. § 10].

The government must prove a quid pro quo between the person who solicits the murder and the person who would commit the murder. However, "as consideration for" simply means "in return for." The "in return for" may be a "promise or agreement to pay anything of pecuniary value."

Eric Wm. Ruschky, Pattern Jury Instructions for Federal Criminal Cases, District of South Carolina § III. 18 U.S.C. § 1958, pp. 508 -09 (2019 Online Edition).

GOVERNMENT'S PROPOSED JURY INSTRUCTION NO. 61

Count 29 – The Nature of the Charge

Count 29 of the Indictment charges that on or about. June 20, 2018, in the Eastern District of North Carolina, the Defendant, LEONID ISAAKOVICH TEYF, aiding and abetting others known and unknown to the grand jury, knowingly possessed a firearm that had been shipped and transported in interstate commerce from which the manufacturer's serial number had been removed; altered and obliterated.

GOVERNMENT'S PROPOSED JURY INSTRUCTION NO. 62

Count 29 – The Statute Defining the Offense

Title 18, United States Code, Section 922(k) provides that it is a violation of law for any person knowingly to transport, ship, or receive, in interstate or foreign commerce, any firearm which has had the importer's or manufacturer's serial number removed, obliterated, or altered or to possess or receive any firearm which has had the importer's or manufacturer's serial number removed, obliterated, or altered and has, at any time, been shipped or transported in interstate or foreign commerce.

18 U.S.C. § 922(k).

GOVERNMENT'S PROPOSED JURY INSTRUCTION NO. 63

Count 29 – Elements of the Offense

For you to find the Defendant guilty, the government must prove each of the following beyond a reasonable doubt:

- First, that the Defendant possessed or received a firearm, or aided and abetted another in so doing;
- Second, that the firearm had the serial number removed, obliterated, or altered;
- Third, that the firearm had traveled in interstate or foreign commerce at some point during its existence; and
- Fourth, that the Defendant acted knowingly, including knowing that the serial number had been removed, obliterated, or altered

Eric Wm. Ruschky, Pattern Jury Instructions for Federal Criminal Cases, District of South Carolina § III. 18 U.S.C. § 922(k), pp. 241-42 (2019 Online Edition).

GOVERNMENT'S PROPOSED JURY INSTRUCTION NO. 64

Count 29 - "Possession" – Defined

Regarding the first element of the offense, the word "possess" means to own or to exert control over. The word "possession" can take on several, but related, meanings.

The law recognizes two kinds of "possession"—actual possession and constructive possession. A person who knowingly has direct physical control over a thing at a given time is then in actual possession of it.

A person who, although not in actual possession, knowingly has both the power and the intention at a given time to exercise dominion and control over a thing, either directly or through another person or persons, is then in constructive possession of it.

It is not necessary that the Government prove that the Defendant physically held the firearm, that is, that the Defendant had actual possession of the firearm. As long as the firearm was within the control of the Defendant, he can be said to have possessed the firearm.

(16.05 Devitt, Blackmar, Wolff & O'Malley, Federal Jury Practice& Instructions (4th Ed. 1992) (modified))

GOVERNMENT'S PROPOSED JURY INSTRUCTION NO. 65

Count 29 – Aid and Abet

Statute and Elements

Title 18, United States Code, Section 2 makes it a crime to aid and abet another person to commit a crime. The guilt of an accused in a criminal case may be established without proof that he personally did every act constituting the offense alleged. The law recognizes that ordinarily anything a person can do for himself may also be accomplished by him through direction of another person as his agent, or by acting in concert with, or under the direction of another person or persons in a joint effort or enterprise.

For you to find the Defendant guilty, the government must prove each of the following beyond a reasonable doubt:

- First, that the crime charged was in fact committed by someone other than the Defendant [the court should instruct on the elements of that crime];
- Second, that the Defendant participated in the criminal venture as in something that he wished to bring about;
- Third, that the Defendant associated himself with the criminal venture knowingly and voluntarily; and
- Fourth, that the Defendant sought by his actions to make the criminal venture succeed.

Simply put, aiding and abetting means to assist the perpetrator of the crime. One who aids, abets, counsels, commands, induces, or procures the commission of an act is as responsible for that act as if he committed it directly.

Eric Wm. Ruschky, Pattern Jury Instructions for Federal Criminal Cases, District of South Carolina § III. 18 U.S.C. § 2, p. 8 (2019 Online Edition).

GOVERNMENT'S PROPOSED JURY INSTRUCTION NO. 66

Count 29 - Aid and Abet Definitions

Evidence that the Defendant merely brought about the arrangement that made the criminal act possible does not alone support a conclusion that the Defendant was aware of the criminal nature of the act.

The government is not required to prove that the Defendant participated in every stage of an illegal venture, but the government is required to prove beyond a reasonable doubt that the Defendant participated at some stage and that the participation was accompanied by knowledge of the result and intent to bring about that result.

There must be evidence to establish that the Defendant engaged in some affirmative conduct, that is, that the Defendant committed an act designed to aid in the success of the venture, and there must be evidence to establish that the Defendant shared in the criminal intent of the person the Defendant was aiding and abetting. It is not necessary that the person who was aided and assisted be tried and convicted of the offense.

It is not necessary that the government prove the actual identity of the perpetrator of the crime. The government must prove that the underlying crime was committed [or attempted, if attempt is included] by some person and that the Defendant aided and abetted that person.

If two persons act in concert with a common purpose or design to commit an unlawful act, then the act of one of them in furtherance of the unlawful act is in law considered the act of the other. The government must prove that the Defendant counseled and advised the commission of the crime, and that the counsel and advice influenced the perpetration of the crime. There is no requirement that fixes a time limit within which the crime must be committed.

If the person who was assisted or induced commits the crime he was assisted or induced to commit, then the person who assisted or induced him is guilty of aiding and abetting.

The government must prove that the Defendant participated in the crime charged.

The mere presence of a Defendant where a crime is being committed even coupled with knowledge by the Defendant that a crime is being committed or the mere acquiescence by a Defendant in the criminal conduct of others even with guilty knowledge is not sufficient to establish guilt.

However, the jury may find knowledge and voluntary participation from evidence of presence when the presence is such that it would be unreasonable for anyone other than a knowledgeable participant to be present.

Eric Wm. Ruschky, Pattern Jury Instructions for Federal Criminal Cases, District of South Carolina § III. 18 U.S.C. § 2, pp. 10-12 (2019 Online Edition).

GOVERNMENT'S PROPOSED JURY INSTRUCTION NO. 67

Count 29 - § 922 (k) Definitions

The government may establish the interstate commerce requirement by showing that the firearm at any time had traveled across a state boundary line, or was manufactured outside the state where the Defendant possessed it.

To possess an item or property means to exercise control or authority over the item or property, voluntarily and intentionally.

Possession may be either sole, by the Defendant alone, or joint, that is, it may be shared with other persons, as long as the Defendant exercised control or authority over the item or property.

Possession may be either actual or constructive.

Actual possession is knowingly having direct physical control or authority over the item or property. Constructive possession is when a person does not have direct physical control or authority, but has the power and the intention to exercise control or authority over the item or property, sometimes through another person.

Constructive possession can be established by evidence, either direct or circumstantial, showing ownership, control or authority over the item or property itself, or the premises, vehicle, or container where the item or property is, such that a person exercises or has the power and intention to exercise control or authority over that item or property

Proof of constructive possession requires proof that the Defendant had knowledge of the presence of the item or property.

A Defendant's mere presence at, or joint tenancy of, a location where an item is found, or his mere association with another person who possesses that item, is not sufficient to establish constructive possession. However, proximity to the item coupled with actual or inferred knowledge of its presence may be sufficient proof to establish constructive possession. Constructive possession does not require proof that the Defendant actually owned the property on which the item was found.

The government must prove that the Defendant knew that the serial number had been removed, obliterated, or altered. You may infer this knowledge from evidence that the Defendant possessed the firearm under conditions under which an ordinary person would have inspected the firearm and discovered that the serial number was removed, obliterated, or altered. The statute does not require that all serial numbers be removed, obliterated, or altered.

Eric Wm. Ruschky, Pattern Jury Instructions for Federal Criminal Cases, District of South Carolina § III. 18 U.S.C. § 922(k), pp. 242-43 (2019 Online Edition).

GOVERNMENT'S PROPOSED JURY INSTRUCTION NO. 68

Count 29 - "Firearm" – Defined

The term "firearm" means "(A) any weapon (including a starter gun), which will or is designed to or may readily be converted to expel a projectile by the action of an explosive; (B) the frame or receiver of any such weapon; (C) any firearm muffler or firearm silencer; or (D) any destructive device. The term [firearm] does not include an antique firearm.

(2A Kevin F. O'Malley et al., Federal Jury Practice and Instructions, Criminal, § 39.11 (6th ed. 2019))

GOVERNMENT'S PROPOSED JURY INSTRUCTION NO. 69

The Nature of the Offense Charged

Count 30 – Harboring Illegal Alien

Count 30 of the Indictment charges that the Defendant(s) conspired and aided and abetted one another to encourage and induce an alien to come to, enter, or reside in the United States, knowing and in reckless disregard of the fact that such coming to, entry, or residence is or will be in violation of law.

GOVERNMENT'S PROPOSED JURY INSTRUCTION NO. 70

The Statute Defining the Offense Charged

Count 30 – Harboring Illegal Aliens

Title 8, United States Code, Sections 1324(a)(1)(A)(iv), (v)(I) and (v)(II) provides that it is a violation of law for any person to encourage or induce an alien to come to, enter, or reside in the United States, knowing or in reckless disregard of the fact that such coming to, entry, or residence is or will be in violation of law; or to conspire or aid and abet with another the commission of such acts. The instructions I have previously read in regard to conspiracy, and to aiding and abetting, apply here as well.

GOVERNMENT'S PROPOSED JURY INSTRUCTION NO. 71

The Essential Elements of the Offense Charged

Count 30 – Harboring Illegal Aliens

For you to find the Defendant guilty, the government must prove each of the following beyond a reasonable doubt:

- First, that the Defendant encouraged or induced an alien; [or conspired or aided and abetted with another to do so]
- Second, to come to, enter, or reside in the United States in violation of law; and
- Third, that the Defendant knew or acted in reckless disregard of the fact that the alien's coming to, entry, or residence in the United States was or would be in violation of law.

Eric Wm. Ruschky, Pattern Jury Instructions for Federal Criminal Cases, District of South Carolina § IV. 8 U.S.C. §1324(a)(1)(A)(iv), p. 674 (2019 Online Edition).

GOVERNMENT'S PROPOSED JURY INSTRUCTION NO. 72

Count 30 – Harboring Illegal Aliens – Definitions

"Encouraging" relates to actions taken to convince the illegal alien to come to this country or to stay in this country.

"Alien" means any person not a citizen or national of the United States. [8 U.S.C. § 1101(a)(3)].

A "national" is a citizen of the United States, or a person who, though not a citizen of the United States, owes permanent allegiance to the United States. [8 U.S.C. § 1101(a)(22)]

The term does not include a person who illegally enters the United States and subjectively considers himself a person who owes permanent allegiance to the United States.

To "come to" the United States means to cross the border into the United States so as to be physically present in the United States whether or not one has actually "entered" [an immigration law term of art] the United States.

To "enter," an alien must cross the United States border free from official restraint. An alien is under official restraint if, after crossing the border without authorization, he is deprived of his liberty and prevented from going at large within the United States. An alien does not have to be in the physical custody of the authorities to be officially restrained. Restraint may take the form of surveillance, unbeknownst to the alien. When under surveillance, the alien has still not made an

entry despite having crossed the border with the intention of evading inspection, because he lacks the freedom to go at large and mix with the population. On the other hand, if an alien is not discovered until some time after exercising his free will within the United States, he has entered free from official restraint.21

A person is "found in" the United States when his physical presence is discovered and noted by the immigration authorities.22

The government does not have to prove that the Defendant knew he was not entitled to enter [or re-enter] the United States without the permission of the Attorney General.

Specific intent to violate the immigration laws is not an element of the offense of alien harboring.

Prosecution is not barred by prior or future official action which may have authorized the alien to be in the United States. Thus, it is the alien status at the time of the alleged offense that is at issue.

The government may proceed on a theory that the Defendant acted with "reckless disregard" rather than actual knowledge. "Reckless disregard" is not defined in Title, 8 United States Code.

Fed. Crim. Jury Instr. 7th Cir. 1324(a)(1)(A)(iv) (2019 ed.)

GOVERNMENT'S PROPOSED JURY INSTRUCTION NO. 73

The Nature of the Offense Charged

Count 31 – Visa Fraud

The Indictment charges that on or about August 10, 2018, within the Eastern District of North Carolina the Defendant, LEONID ISAAKOVICH TEYF did knowingly use and possess an immigrant visa in the name of LEONID ISAAKOVICH TEYF, which the Defendant knew to be procured by means of a false claim and statement, in that the Defendant did falsely claim on an I-140 application that he was entering the United States to be a multinational executive employee of Delta Plus, LLC, making $110,000 annually, and LEONID ISAAKOVICH TEYF was in possession of and used the resulting visa at the Raleigh-Durham International Airport.

GOVERNMENT'S PROPOSED JURY INSTRUCTION NO. 74

The Statute Defining the Offense Charged

Section 1546(a) of Title 18, United States Code provides in relevant part: whoever "utters, uses, attempts to use, possesses, obtains, accepts, or receives any such visa, permit, border crossing card, alien registration receipt card, or other document prescribed by statute or regulation for entry into or as evidence of authorized stay or employment in the United States, knowing it to be forged, counterfeited, altered, or falsely made, or to have been procured by means of any false claim or statement, or to have been otherwise procured by fraud or unlawfully obtained," is guilty of an offense against the United States.

GOVERNMENT'S PROPOSED JURY INSTRUCTION NO. 75

Count 31 – Essential Elements of the Offense

- First, that the Defendant uttered, used, attempted to use, possessed, obtained, accepted, or received;
- Second, an immigrant or nonimmigrant visa, permit, border crossing card, alien registration receipt card, or other document prescribed by statute or regulation for entry into or as evidence of authorized stay or employment in the United States which had been forged, counterfeited, altered, or falsely made; and
- Third, that the Defendant knew the immigrant or nonimmigrant visa, permit, border crossing card, alien registration receipt card, or other document prescribed by statute or regulation for entry into or as evidence of authorized stay or employment in the United States had been forged, counterfeited, altered, or falsely made

Eric Wm. Ruschky, Pattern Jury Instructions for Federal Criminal Cases, District of South Carolina § III. 18 U.S.C. § 1546, p. 447 (2019 Online Edition).

GOVERNMENT'S PROPOSED JURY INSTRUCTION NO. 76

"Material" - Defined

A statement is material if it has a natural tendency to influence, or is capable of influencing, the decision-making body to which it was addressed. It is irrelevant whether the false statement actually influenced or affected the decision-making process of the agency or fact finding body. A false statement's capacity to influence must be measured at the point in time that the statement was made.

To establish that a statement was false, the government must negate any reasonable interpretation that would make the Defendant's statement factually correct

Eric Wm. Ruschky, Pattern Jury Instructions for Federal Criminal Cases, District of South Carolina § III. 18 U.S.C. § 1546, p. 450 (2019 Online Edition).

GOVERNMENT'S PROPOSED JURY INSTRUCTION NO. 77

The Nature of the Offense Charged

Counts 44 through 47 – Filing False Tax Return

Counts 44 through 47 charge that on or about the dates set forth in the Indictment, in the Eastern District of North Carolina, the Defendant LEONID ISAAKOVICH TEYF and TATYANA ANATOLYEVNA TEYF (also known as Tatiana Teyf), each a resident of Raleigh, North Carolina, did willfully make and subscribe a tax return, which was verified by a written declaration that it was made under the penalties of perjury and which LEONID ISAAKOVICH TEYF and TATYANA ANATOLYEVNA TEYF (also known as Tatiana Teyf) did not believe to be true and correct as to every material matter., all in violation of Title 26, United States Code, Section 7206.

GOVERNMENT'S PROPOSED JURY INSTRUCTION NO. 78

The Statute Defining the Offense Charged

Counts 44 through 47

Section 7206 of Title 26 of the United States Code provides, in part, that "[a]ny person who [w]illfully makes and subscribes any return, statement, or other document, which contains or is verified by a written declaration that it is made under the penalties of perjury, and which he does not believe to be true and correct as to every material matter shall . . . be guilty of an offense against the United States.

GOVERNMENT'S PROPOSED JURY INSTRUCTION NO. 79

The Essential Elements of the Offense Charged

Counts 44 through 47

In order to sustain its burden of proof for the crime of false statement in a tax return as charged in Counts 44 through 47 of the Indictment, the Government must prove each of the following essential elements beyond a reasonable doubt:

- First, that the Defendant made, or caused to be made, and signed a tax return for the year in question containing a written declaration;
- Second, that the tax return was made under the penalties of perjury;
- Third, that the Defendant did not believe the return to be true and correct as to every material matter; and
- Fourth, that the Defendant acted willfully.

Eric Wm. Ruschky, Pattern Jury Instructions for Federal Criminal Cases, District of South Carolina § IV. 26 U.S.C. § 7206, p. 806 (2019 Online Edition).

GOVERNMENT'S PROPOSED JURY INSTRUCTION NO. 80

26 U.S.C. 7206 – Definitions

Counts 44 through 47

It is not enough for the government to prove simply that the tax return was erroneous.

A statement is material if it has a natural tendency to influence, or is capable of influencing, the Internal Revenue Service. The test of materiality is whether a particular item must be reported in order that the taxpayer estimate and compute his tax correctly. The purpose of this law is not simply to ensure that the taxpayer pay the proper amount of taxes, but also to ensure that the taxpayer not make misstatements that could hinder the Internal Revenue Service in carrying out such functions as the verification of the accuracy of the return or of a related return. Thus, your determination of materiality does not depend upon the amount of the unpaid tax. For example, any failure to report income is material; the omission of information necessary to compute income is material; and false statements relating to gross income, irrespective of the amount, constitute material misstatements.

Willfulness is defined as the voluntary intentional violation of a known legal duty.

A Defendant's conduct is not willful if it was due to negligence, inadvertence, or mistake, or was the result of a good faith misunderstanding of the requirements of the law.

The Defendant's conduct would not be willful if you find that he acted in accordance with a good faith misunderstanding of the law. The Defendant's views need not be legally correct, just as long as he honestly and in good faith really and truly believed and acted upon them. A good faith misunderstanding of the law, as distinct from disagreement [with] the law, is a defense.

Eric Wm. Ruschky, Pattern Jury Instructions for Federal Criminal Cases, District of South Carolina § IV. 26 U.S.C. § 7206, p.807 (2019 Online Edition).

GOVERNMENT'S PROPOSED JURY INSTRUCTION NO. 81

"Willfulness" – Explained

Counts 44 through 47

The Government must prove beyond a reasonable doubt that the Defendant acted knowingly and willfully with respect to Counts 44 through 47.

In order for the government to prove this element, it must establish beyond a reasonable doubt that the defendant acted voluntarily and intentionally, with the specific intent to make a statement that the defendant knew was false, when it was the legal duty of the defendant to answer truthfully, and the defendant knew it was his legal duty to answer truthfully

1 Modern Federal Jury Instructions-Criminal P 59.24 (2019).

GOVERNMENT'S PROPOSED JURY INSTRUCTION NO. 82

The Nature of the Offense Charged

The Defendant(s) is charged with failing to comply with the requirement that he/she keep records and file reports concerning his/her relationship and/or transactions with a foreign financial agency.

The Indictment reads as follows: On or about the dates listed in Counts 48 and 49 as to Defendant, Leonid Isaakovich Teyf, and the date listed in Count 50 as to Tatyana Anotolyevna Teyf, a/k/a Tatiana Teyf, in the Eastern District of North Carolina and elsewhere, a resident of the United States, who during the alleged calendar years had a financial interest in and other authority over, a financial account in a foreign country, which account during 2014 exceeded $10,000 in aggregate value, willfully failed to file FinCen Form 114, Report of Foreign Bank and Financial Accounts, as required by law, to wit: Defendant · failed to file FinCen Form 114 disclosing his financial interest in, and other authority over, account(s) at Alfa Bank in Russia, in violation of Title 31, United States Code, Sections 5314 and 5322(b) and applicable regulations.

GOVERNMENT'S PROPOSED JURY INSTRUCTION NO. 83

The Statute Defining the Offense Charged

Section 5314 of Title 31 of the United States Code, the statute referred to in the indictment, provides:

> (a) Considering the need to avoid impeding or controlling the export or import of monetary instruments and the need to avoid burdening unreasonably a person making a transaction with a foreign financial agency, the Secretary of the Treasury shall require a resident or citizen of the United States or a person in, and doing business in, the United States, to keep records, file reports, or keep records and file reports, when the resident, citizen, or person makes a transaction or maintains a relation for any person with a foreign financial agency

This statute should be read in conjunction with the following regulations:

31 C.F.R. 1010.350:

> (a) In general. Each United States person having a financial interest in, or signature or other authority over, a bank, securities, or other financial account in a foreign country shall report such relationship to the Commissioner of Internal Revenue for each year in which such relationship exists and shall provide such information as shall be specified in a reporting form prescribed under 31 U.S.C. 5314 to be filed by such persons. The form prescribed under

section 5314 is the Report of Foreign Bank and Financial Accounts (TD–F 90–22.1), or any successor form;

(b) United States person. For purposes of this section, the term "United States person" means—

(1) A citizen of the United States;

(2) A resident of the United States. A resident of the United States is an individual who is a resident alien under 26 U.S.C. 7701(b) and the regulations thereunder but using the definition of "United States" provided in 31 CFR 1010.100(hhh) rather than the definition of "United States" in 26 CFR 301.7701(b)–1(c)(2)(ii)

(c) Types of reportable accounts. For purposes of this section—

(1) Bank account. The term "bank account" means a savings deposit, demand deposit, checking, or any other account maintained with a person engaged in the business of banking.

(2) Securities account. The term "securities account" means an account with a person engaged in the business of buying, selling, holding or trading stock or other securities.

(3) Other financial account. The term "other financial account" means—

(i) An account with a person that is in the business of accepting deposits as a financial agency;

(ii) An account that is an insurance or annuity policy with a cash value;

(iii) An account with a person that acts as a broker or dealer for futures or options transactions in any commodity on or subject to the rules of a commodity exchange or association; or

(iv) An account with—

(A) Mutual fund or similar pooled fund. A mutual fund or similar pooled fund which issues shares available to the general public that have a regular net asset value determination and regular redemptions; or

(B) Other investment fund. [Reserved]

Finally, section 5322(a) of Title 31 further provides:

A person willfully violating this subchapter or a regulation prescribed under this subchapter [shall be guilty of a crime].

GOVERNMENT'S PROPOSED JURY INSTRUCTION NO. 84

The Essential Elements of the Offense

In order to prove the crime of failure to report having a relationship or conducting transactions with a foreign financial agency in violation of sections 5314 and 5322(a), the government must prove beyond a reasonable doubt each of the following elements:

- First, that at the time alleged in the indictment the Defendant had a relationship or conducted transactions with a foreign financial agency as alleged in the Indictment.
- Second, that the Defendant failed to report this relationship or these transactions as required by law.
- Third, that the Defendant willfully failed to file the report concerning the relationship or transactions.

3 Modern Federal Jury Instructions-Criminal § 50B.03 (2019)

GOVERNMENT'S PROPOSED JURY INSTRUCTION NO. 85

Verdict – Election of Foreperson – Duty to Deliberate – Unanimity – Punishment – Form of Verdict – Communication with Court

Upon retiring to your jury room to begin your deliberation, you must elect one of your members to act as your foreperson. The foreperson will preside over your deliberations and will be your spokesperson here in court.

Your verdict must represent the collective judgment of the jury. In order to return a verdict, it is necessary that each juror agree to it. Your verdict, in other words, must be unanimous.

It is your duty as jurors to consult with one another and to deliberate with one another with a view towards reaching an agreement if you can do so without violence to individual judgment. Each of you must decide the case for himself and herself, but do so only after an impartial consideration of the evidence in the case with your fellow jurors. In the course of your deliberations, do not hesitate to reexamine your own views and to change your opinion if convinced it is erroneous. Do not surrender your honest conviction, however, solely because of the opinion of your fellow jurors or for the mere purpose of thereby being able to return a unanimous verdict.

Remember at all times that you are not partisans. You are judges—judges of the facts of this case. Your sole interest is to seek the truth from the evidence received during the trial.

Your verdict must be based solely upon the evidence received in the case.

Nothing you have seen or read outside of court may be considered. Nothing that I have said or done during the course of this trial is intended in any way, to somehow suggest to you what I think your verdict should be. Nothing said in these instructions and nothing in any form of verdict, which has been prepared for your convenience, is to suggest or convey to you in any way or manner any intimation as to what verdict I think you should return. What the verdict shall be is the exclusive duty and responsibility of the jury. As I have told you many times, you are the sole judges of the facts.

The punishment provided by law for the offenses charged in the Indictment is a matter exclusively within the province of the Court and should never be considered by the jury in any way in arriving at an impartial verdict as to the offenses charged.

A form of verdicts has been prepared for your convenience.

[The form of verdict should be read to the jury]

You will take this form to the jury room and, when you have reached unanimous agreement as to your verdicts, you will have your foreperson write your verdicts, date and sign the form, and then return with your verdicts to the courtroom.

If it becomes necessary during your deliberations to communicate with the Court, you may send a note, signed by your foreperson or by one or more members of the jury, through the bailiff.

No member of the jury should ever attempt to communicate with the Court by any means other than a signed writing and the Court will never communicate with

any member of the jury concerning the evidence, your opinions, or the deliberations other than in writing or orally here in open court.

You will note from the oath about to be taken by the bailiffs that they too, as well as all other persons, are forbidden to communicate in any way or manner with any member of the jury concerning the evidence, your opinions, or the deliberations.

Bear in mind also that you are never to reveal to any person—not even to the Court—how the jury stands, numerically or otherwise, on the question of whether or not the government has sustained its burden of proof until after you have reached a unanimous verdict.

(1A Kevin F. O'Malley et al., Federal Jury Practice and Instructions, Criminal, § 20.01 (6th ed. 2019))

CERTIFICATE OF SERVICE

This is to certify that a copy of the foregoing has on this 3rd day of February, 2020, been filed via CM/ECF, which will provide notice of such filing to counsel for the Defendant:

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